



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

**Chenault Veterinary Cremation Services LLC
Permit No. 40990**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and 10.1-1316.C. between the State Air Pollution Control Board (SAPCB) and Chenault Veterinary Cremation Services LLC, for the purpose of resolving certain violations of Air Pollution Control Laws and the Regulations for the Control and Abatement of Air Pollution.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
2. "Chenault" means Chenault Veterinary Cremation Services LLC, a Virginia Corporation, certified to do business in Virginia.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.

5. "Facility" means the Chenault Veterinary Cremation Services LLC crematorium located at 17298 Jefferson Davis Highway, Ruther Glen, VA 22546.
6. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
7. "Order" means this document, also known as a Consent Order.
8. "Permit " refers to the minor New Source Review (mNSR) Permit, registration number 40990 issued on May 28, 2004.
9. "Regulations" mean the Regulations for the Control and Abatement of Air Pollution, located in the Virginia Administrative Code ("VAC"), 9 VAC 5-10-10 *et seq.*
10. "VAC" means the Virginia Administrative Code.
11. "Virginia Air Pollution Control Law" means the laws located in the Virginia Code ("Va. Code") (1950), as amended, Va. Code § 10.1-1300 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. Chenault Veterinary Cremation Services LLC has a State Operating Permit dated May 28, 2004 to modify and operate an animal incineration facility located in Ruther Glen, Virginia.
2. Chenault and DEQ entered into a Letter of Agreement (LOA) on May 22, 2006, to resolve compliance issues under the Permit.
3. DEQ staff conducted an inspection of the Facility on April 23, 2008, and April 29, 2008.
4. As result of the inspections by DEQ and the Facility's prior compliance history, a Notice of Violation (NOV) was issued to Chenault by DEQ on May 29, 2008.
5. The May 29, 2008 NOV addressed the following violations:
 - a. Unit #1 (Crawford C500P Incinerator):
 1. Between January 3, 2008, and April 25, 2008, the unit did not operate for a minimum of three hours after the last batch was charged into the incinerator during all cremations conducted (based on total burn time records).
 - b. Unit #2 (Consumate Systems 32P Incinerator):

1. The recorded temperature readings for all reviewed cremations indicated that the secondary chamber temperature was erratic, and fluctuated between 1000 degrees Fahrenheit and 1800 degrees Fahrenheit.
 2. The unit is not equipped with an interlock system to prevent unit feeding prior to attaining the minimum secondary chamber temperature.
 3. The unit did not operate for a minimum of three hours after the last batch is charged into the incinerator during all cremations conducted (based on total burn time records).
 4. DEQ observed the unit operating and observed flames emanating from the side of the crematory unit. Upon closer examination, it appeared the flames were coming from a large hole (gap) in the side of the metal shield covering the burner. Visible emissions could be seen being emitted from the hole and a strong odor consistent with incomplete combustion was detected for the duration of DEQ's visit. In addition, during the visible emissions observation conducted on the unit's exhaust stack (outside the building), DEQ observed visible emissions being emitted from the building's vent mounted on the roof.
- c. Unit #3 (Crawford CB 2400):
1. Between December 4, 2007, and April 20, 2008, during six cremations, the unit operated below the minimum temperatures required by the permit.
 2. On December 30, 2007, and March 12, 2008, the unit did not operate a minimum of four hours as required by the operating permit
- d. Units # 1, 2 & 3
1. The hourly throughput records maintained by Chenault Veterinary Cremation Services LLC did not consistently contain records of the total pounds cremated during each cremation conducted.
6. On July 1, 2008, Chenault personnel met with DEQ to discuss the compliance issues as outlined in the May 29, 2008 NOV. At the meeting, Chenault agreed to submit a Form 7 applying for an amendment of the Facility Permit to reflect operational changes of the units including discontinuing the use of Unit #2.
7. On July 13, 2009, DEQ issued a mNSR Permit to Chenault. This July 13, 2009 Permit supersedes the Permit dated May 28, 2004.
8. As detailed in the findings of fact above, DEQ concludes that Chenault is in violation of Conditions 4, 7, 8, 16, 20 and 26(a) of the mNSR, registration number 40990, dated May 28, 2004, 9 VAC 5-80-800, 9 VAC 5-50-20(E), and applicable sections of 40 CFR 60.
9. Chenault has submitted documentation that verifies that the violations described in Paragraphs 5, above, have been corrected.

SECTION D: Agreement and Order

By virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and -1316 and upon consideration of Va. Code § 10.1-1186.2, the Board orders Chenault Veterinary Cremation Services LLC, and Chenault Veterinary Cremation Services LLC agrees:

1. To a civil charge of \$26,000.00 in settlement of the violations cited in this Order, to be paid as follows:
 - a. Chenault Veterinary Cremation Services LLC shall pay \$7,800 of the civil charge within 30 days of the effective date of this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Chenault Veterinary Cremation Services LLC shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

- b. Chenault Veterinary Cremation Services LLC shall satisfy \$18,200 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) described in Appendix A of this Order.
- c. The net project costs of the SEP to Chenault Veterinary Cremation Services LLC shall not be less than the amount set forth in Paragraph D.1.b. If it is, Chenault Veterinary Cremation Services LLC shall pay the remaining amount in accordance with Paragraph D.1.a of this Order, unless otherwise agreed to by the Department. "Net project cost" means the net present after-tax cost of the SEP, including tax savings, grants, and first-year cost reductions and other efficiencies realized by virtue of project implementation. If the proposed SEP is for a project for which the party will receive an identifiable tax savings (e.g., tax credits for pollution control or recycling equipment), grants, or first-year operation cost reductions or other efficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEPs that are funded by state or federal low-interest loans, contracts, or grants shall be deducted.
- d. By signing this Order Chenault Veterinary Cremation Services LLC certifies that it has not commenced performance of the SEP.

- e. Chenault Veterinary Cremation Services LLC acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by Chenault Veterinary Cremation Services LLC to a third party, shall not relieve Chenault Veterinary Cremation Services LLC of its responsibility to complete the SEP as described in this Order.
- f. In the event it publicizes the SEP or the SEP results, Chenault Veterinary Cremation Services LLC shall state in a prominent manner that the project is part of a settlement of an enforcement action.
- g. The Department has the sole discretion to:
 - i. Authorize any alternate, equivalent SEP proposed by the Facility; and
 - ii. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.

Should the Department determine that Chenault Veterinary Cremation Services LLC has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify Chenault Veterinary Cremation Services LLC in writing. Within 30 days of being notified, Chenault Veterinary Cremation Services LLC shall pay the amount specified in Paragraph D.1.b, above, as provided in Paragraph D.1.a, above.

SECTION E: Administrative Provisions

- 1. The Board may modify, rewrite, or amend the Order with the consent of Chenault Veterinary Cremation Services LLC, for good cause shown by Chenault Veterinary Cremation Services LLC, or on its own motion after notice and opportunity to be heard.
- 2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities, whether or not arising out of the same or similar facts, for matters not addressed herein.
- 3. For purposes of this Order and subsequent actions with respect to this Order, Chenault Veterinary Cremation Services LLC admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Chenault Veterinary Cremation Services LLC consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Chenault Veterinary Cremation Services LLC declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
5. Failure by Chenault Veterinary Cremation Services LLC to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
7. Chenault Veterinary Cremation Services LLC shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Chenault Veterinary Cremation Services LLC shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Chenault Veterinary Cremation Services LLC shall notify the DEQ-NRO Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Chenault Veterinary Cremation Services LLC intends to assert will result or has resulted in the impossibility of compliance, shall

constitute a waiver of any claim of inability to comply with a requirement of this Order.

8. Any plans, reports, schedules or specifications attached hereto or submitted by Chenault Veterinary Cremation Services LLC and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Chenault Veterinary Cremation Services LLC. Notwithstanding the foregoing, Chenault Veterinary Cremation Services LLC agrees to be bound by any compliance date that precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Chenault Veterinary Cremation Services LLC or until Chenault Veterinary Cremation Services LLC petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Chenault Veterinary Cremation Services LLC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
11. By its signature below, Chenault Veterinary Cremation Services LLC voluntarily agrees to the issuance of this Order.
12. The undersigned representative of Chenault Veterinary Cremation Services LLC certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Chenault Veterinary Cremation Services LLC to this document. Any documents submitted pursuant to this Order shall also be submitted by a responsible official of Chenault Veterinary Cremation Services LLC

And it is so ORDERED this 18th day of December, 2009.



Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Chenault Veterinary Cremation Services LLC voluntarily agrees to the issuance of this Order.

Date: 12/15/09 By: R.B. Chenault, Manager
(Person) (Title)
Chenault Veterinary Cremation Services LLC

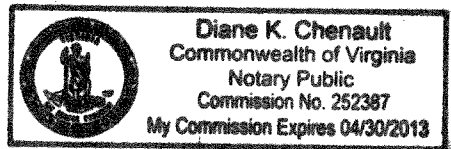
Commonwealth of Virginia
City/County of Hanover

The foregoing document was signed and acknowledged before me this 15 day of
December, 2009, by R.B. Chenault, Jr. who is
Manager, Chenault Veterinary Cremation Services LLC, on behalf of
the corporation.

Diane Chenault
Notary Public
252387
Registration No.

My commission expires: April 30, 2013

Notary seal:



APPENDIX A

Chenault Veterinary Cremation Services LLC shall perform the SEP identified below in the manner specified in this Appendix.

1. The SEP to be performed by Chenault Veterinary Cremation Services LLC is to install a Carrier, 30RAP040 40 Ton Air Cooled Scroll Chiller unit to increase the efficiency of the HVAC system in the new Chenault Veterinary Hospital for an estimated energy savings of approximately 5 to 9 %.
2. Within 30 days of the execution of this Order, Chenault Veterinary Cremation Services LLC shall submit a schedule for installation of the Chiller Unit to DEQ for review and approval. The schedule shall include a timeline for installation and operation of the unit. The approved schedule shall be an enforceable part of this Order.
3. Chenault Veterinary Cremation Services LLC shall submit progress reports on the SEP on a monthly basis, due the 10th day of each month.
4. Chenault Veterinary Cremation Services LLC shall submit a written final report on the SEP, verifying that the SEP has been completed in accordance with the terms of this Order, and certified either by a Certified Public Accountant or by a responsible corporate officer or owner. Chenault Veterinary Cremation Services LLC shall submit the final report and certification to the Department within 30 days of completion of the SEP.
5. If the SEP has not or can not be completed as described in the Order, Chenault Veterinary Cremation Services LLC shall notify DEQ in writing no later than 90 days from the execution of this Order. Such notification shall include:
 - a. An alternate SEP proposal, or
 - b. Payment of the amount specified in paragraph D.1.b as specified in paragraph D.1.a.
6. Chenault Veterinary Cremation Services LLC hereby consents to reasonable access by DEQ or its staff to property or documents under the party's control, for verifying progress or completion of the SEP.
7. Chenault Veterinary Cremation Services LLC shall submit to the Department written notification of the final overall and net project cost of the SEP in the form of a certified statement itemizing costs, invoices and proof of payment, or similar documentation within 30 days of completion of the SEP. For the purposes of this submittal, net project costs can be either the actual, final net project costs or the projected net project costs if such projected net project costs statement is accompanied by a CPA certification or certification from Chenault Veterinary Cremation Services LLC's Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.

8. Documents to be submitted to the Department, other than the civil charge payment described in Section D of this Order, shall be sent to:

Virginia Department of Environmental Quality
Attn: Enforcement Staff
13901 Crown Court
Woodbridge, VA 22193